

AMENDED IN ASSEMBLY APRIL 5, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 370**

**Introduced by Assembly Member Aghazarian**

February 11, 2005

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An act to add Section 3137 to the Business and Professions Code, relating to optometry.

LEGISLATIVE COUNSEL'S DIGEST

AB 370, as amended, Aghazarian. Optometry.

The Optometry Practice Act provides for the licensing and regulation of optometrists by the State Board of Optometry. Existing law authorizes the board to initiate disciplinary proceedings against a licensee for violations of the act.

This bill would generally require the board to initiate proceedings against a licensee within 3 years after the board discovers the act or omission that is the subject of the proceeding, or within 7 years after the act or omission occurred, whichever comes first, subject to certain exceptions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 3137 is added to the Business and
- 2 Professions Code, to read:
- 3 3137. (a) Except as otherwise provided in this section, any
- 4 proceeding initiated by the board against a licensee for the
- 5 violation of any provision of this chapter shall be filed within
- 6 three years after the board discovers the act or omission alleged

1 as the ground for disciplinary action, or within seven years after  
2 the act or omission alleged as the ground for disciplinary action  
3 occurs, whichever occurs first.

4 (b) An accusation filed against a licensee pursuant to Section  
5 11503 of the Government Code alleging fraud or willful  
6 misrepresentation is not subject to the limitation in subdivision

7 (a).

8 (c) An accusation filed against a licensee pursuant to Section  
9 11503 of the Government Code alleging unprofessional conduct  
10 based on incompetence, gross negligence, or repeated negligent

11 acts of the licensee is not subject to the limitation in subdivision  
12 (a) upon proof that the licensee intentionally concealed from  
13 discovery his or her incompetence, gross negligence, or repeated  
14 negligent acts.

15 (d) If an alleged act or omission involves any conduct  
16 described in Section 726 committed on a minor, ~~the seven-year~~  
17 ~~limitations period in subdivision (a) and the 10-year limitations~~  
18 ~~period in subdivision (e) shall be tolled until the minor reaches~~  
19 ~~the age of majority.~~

20 (e) An accusation filed against a licensee pursuant to Section  
21 11503 of the Government Code alleging conduct described in  
22 ~~Section 726 not committed on a minor~~ shall be filed within three  
23 years after the board discovers the act or omission alleged as the  
24 ground for disciplinary action, or within 10 years after the act or  
25 omission alleged as the ground for disciplinary action occurs,  
26 whichever occurs first. This subdivision shall apply to a  
27 complaint alleging conduct received by the board on and after  
28 January 1, 2006.

29 (f) In any allegation, accusation, or proceeding described in  
30 this section, the limitations period in subdivision (a) shall be  
31 tolled for the period during which material evidence necessary  
32 for prosecuting or determining whether a disciplinary action  
33 would be appropriate is unavailable to the board due to an  
34 ongoing criminal investigation.